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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,721	04/10/2001	Glenn R. Smith	SVL920010005US1(IBM 2	8452
46158	7590	11/13/2007	004	
Rankin, Hill, Porter & Clark, LLP 925 Euclid Avenue, Suite 700 Cleveland, OH 44115-1405			EXAMINER	
			ART UNIT	PAPER NUMBER

DATE MAILED: 11/13/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/829,721

Applicant(s)

SMITH ET AL.

Examiner

Gregory J. Vaughn

Art Unit

2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 23 October 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
**STEPHEN HONG**  
SUPERVISORY PATENT EXAMINER

Continuation of 10. Other (including any explanation in support of the above items):

The "Order Returning Undocketed Appeal to Examiner" was issued by the Board of Patent Appeals and Interferences on 10/18/2007, requiring the examiner to: 1) hold the Appeal Brief filed 10/23/2006 defective; 2) notify appellant to submit a paper which corrects the Appeal Brief; 3) acknowledge and consider the paper, and 4) facilitate any further action required.

The "Order Returning Undocketed Appeal to Examiner" dated 10/18/2007 is repeated below:

Appellant filed an Appeal Brief dated October 23, 2006, in response to the Final Rejection mailed March 20, 2006. The Appeal Brief is not in compliance with 37 CFR § 41.37(c)(v), effective September 13, 2004. The "Summary of Claimed Subject Matter" section appearing on page 2-4 of the Appeal Brief filed October 23, 2007, is deficient. Dependent claims 3, 7 and 15 contain "means for" language. An explanation of the claimed subject matter for each dependent claim argued separately (claims 3, 7 and 15) must be included as well as mapping to the specification by page and line number.

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b) .